

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EVEIANA NAZARIO, individually, and
on behalf of all others similarly situated,

Plaintiff,

v.

SIRIUS XM RADIO, INC.,

Defendant.

Civil Action No. 1:19-cv-07844

**DEFENDANT SIRIUS XM'S
MOTION TO DISMISS FOR FAILING TO STATE A CLAIM OR, IN THE
ALTERNATIVE, TO STAY PENDING THE SEVENTH CIRCUIT'S
DECISION IN *GADELHAK v. AT&T SERVICES, INC.***

NOW COMES Defendant Sirius XM Radio Inc. ("Sirius XM"), by and through its undersigned attorneys, and pursuant to Federal Rule of Civil Procedure 12, and hereby moves to dismiss Plaintiff's Complaint for failing to state a claim or, in the alternative, to stay pending the Seventh's Circuit's decision in *Gadelhak v. AT&T Services, Inc.* In support of its Motion, Sirius XM submits its Memorandum of Law, filed contemporaneously herewith, and incorporates the same as if fully set forth herein.

WHEREFORE, Defendant Sirius XM respectfully requests that the Court dismiss Plaintiff's Complaint for failing to state a claim or, in the alternative, to stay pending the Seventh's Circuit's decision in *Gadelhak v. AT&T Services, Inc.*

Dated: January 8, 2020

Respectfully submitted,

/s/ Christopher A. Hall

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Attorneys for Defendant Sirius XM Radio Inc.

CERTIFICATE OF SERVICE

I, Christopher A. Hall, certify that on January 8, 2020, I caused the foregoing to be filed with the Clerk of the Court and served upon all counsel of record via the CM/ECF system.

/s/ Christopher A. Hall
Christopher A. Hall